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EXAMINER

RIMELL, SAMUEL G

ART UNIT PAPER NUMBER

2175

DATE MAILED: 08/19/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/706,194

Applicant(s)

O BRIEN, DANAMICHELE
BRENNEN

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-172 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-123, 158 and 159 is/are allowed.
- 6) ☒ Claim(s) 124-157 and 160-172 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3,4628

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Preliminary Note: Examiner acknowledges applicant's response of 5/24/04. The response complies with of March 23, 2004.

Protest Under 37 CFR. 1.291(a):

This application includes a protest submitted under 37 CFR 1.291(a). The protest has been fully reviewed and considered in its entirety. Examiner does not find any of the proposed rejections to be appropriate to the current claim set. This is not to say that all of the claims in the current claim set are allowable, but only that the rejections proposed and set forth in the protest cannot be properly applied the claims. In particular:

(1) None of the prior art references discussed in the protest will individually anticipate any of the claims of record. This has been confirmed by the examiner and is further evidenced by the fact that none of the proposed rejections in the protest are made under 35 USC 102.

(2) None of the prior art references discussed in the protest can be modified in the absence of secondary teachings to produce any of the claims in the claimed invention.

(3) The individual prior art references listed in the protest lack sufficient evidence within each reference to suggest a combination with the other references, and thus evidence of obviousness is lacking in these combinations.

(4) Examiner does not find any issues of enablement under 35 USC 112, first paragraph with respect to any of the presently pending claims.

Office Action on the Merits:

New formal drawings are required in response to this action. The office no longer accepts the transfer of drawings in a re-issue application.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 125-140, 142-157 and 167 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 125: The phrase "the organization" lacks antecedent basis.

Claims 126-140: Claims 126-140 depend from claim 125.

Claim 142: The phrase "the organization" lacks antecedent basis.

Claims 143-157: Claims 143-157 depend from claim 142.

Claim 167: The phrase "the organization" lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 124, 140, 141, 157, 160-166 and 168-169 are rejected under 35 U.S.C. 102(e) as being anticipated by Garback (U.S. Patent 5,237,499).

Claim 124: Garback is addressed to a travel planning system that permits the planning and cost minimization of travel for an organization or group (col. 4, lines 12-20). The travel links are airline flights performed by airline carriers and stored in the Sabre or Apollo central reservation systems. The step of determining travel information representative of the links are the blocks 42-46 in FIG. 2A, where both passenger and airline information is collected. The step of

determining constraints is the step of checking airline availability in block 47. The step of prospectively allocating the trips is the step of booking flights in block 49. The step of determining travel cost is the step of price checking in block (61) of FIG. 2D, which will occur after hotel and car reservations are addressed in FIG. 2C. The step of ascertaining whether travel information should be changed is the step of checking for lower fares and either keeping the information the same or changing the information, as shown in blocks 62-66 in FIG. 2E. The step of repeating previous steps c-e is optionally recited by use of the "if" clause and thus carries no patentable weight. Nonetheless it would be taught in the situation where a data entry operator enters data for a new passenger, which is also a changed condition or constraint. A report of the optimal travel scheme applied to the organization is shown in FIG. 4.

Claim 140: The computer programming steps in FIGS. 2A through 2E is regarded as linear programming since the control logic does define at least one linear path of decisions from a beginning point to an end point. Additionally, portions of the programming include strictly linear paths of decisions, such as blocks 44-47 in FIG. 2A.

Claim 141: See remarks for claim 124.

Claim 157: See remarks for claim 140.

Claim 160: See remarks for claim 124. The article of manufacture is the system of FIG. 1 and includes the programming steps of FIGS. 2A-2E.

Claim 161: FIG. 4 is a preferred travel scheme. It is preferred by reason that it is cost optimized (see cost checking of FIG. 2D).

Claim 162: The travel information may be based upon groups of users (col. 4, lines 12-20).

Claim 163: FIG. 2D involves cost determinations at each of steps 61, 62, 63 and 64.

Claim 164: The ascertaining of whether constraints or information should be changed in shown in blocks 62-66 in FIG. 2E. The step of repeating the previous steps c-e is optionally recited by use of the "if" clause, and thus carries no patentable weight. Nonetheless, it would be taught in the situation where a data entry operator enters data for a new passenger, which is also a changed condition or constraint.

Claim 165: FIG. 4 is a generation of output data representing the optimized travel scheme.

Claim 166: See remarks for claim 124.

Claim 168: Garback discloses a system for planning the travel for groups of people within an organization (col. 4, lines 12-20). Blocks 44-46 in FIG. 2A involve the determination of travel information. Blocks 61-66 in FIG. 2D involve the determination of travel cost information. The determination of supply and demand information is the determination of airline availability in block 47 of FIG. 2A. The constraints are those constraints imposed by the passengers, such as the location of the city for a meeting or conference. These constraints are determined by having the program retrieve this data, such as at block 44 in FIG. 2A. The travel trips are allocated by booking seats, as shown in block 68 in FIG. 2B. The final travel scheme is illustrated in FIG. 4.

Claim 169: Garback discloses a system for planning the travel for groups of people within an organization (col. 4, lines 12-20). The step of obtaining travel information may be the step of obtaining bids from travel providers such as airlines or hotels who will be preferred providers to the group (col. 4, lines 38-41). Using this information, a travel policy file is

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constructed containing those negotiated fares (col. 6, line 65). Since a “mathematical expression” may be nothing more than a set of numbers or values, the set of negotiated fare values that are within the travel policy file represent a mathematical expression. The set of constraints may be the constraint of requiring the lowest published fare for a ticket, as illustrated in FIG. 2D, the constraint of airline availability as defined in block 47 of FIG. 2A, or the constraint of requiring flights to and from a specific meeting place, as set forth in block 44 of FIG. 2A. The mathematical programming solution is thus the entire set of steps defined in FIGS. 2A through 2E that lead to a solution in which a lowest cost fare is obtained and displayed in FIG. 4.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 170-172 are rejected under 35 U.S.C. 102(b) as being anticipated by Webber et al. (U.S. Patent 5,021,953).

Claim 170: FIG. 1 of Webber et al. illustrates a processor (18). The processor (18) obtains travel information (120) which contains information for the travel links provided by a carrier. The travel scheme model is the set of rules (24) constructed in the processor. The rules are considered to be mathematical programming because they are reprogrammed steps in a processor and involve manipulations of numbers (fare values). The mathematical programming solution technique is to process the three sets of data (20, 22, 24) in FIG. 1 to produce itineraries that have the lowest cost (col. 4, lines 30-34).

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Claim 171: The mathematical programming model (rules) have a goal of achieving a lowest fare (col. 4, lines 30-34).

Claim 172: The mathematical programming model (rules) have a goal of achieving a lowest fare (col. 4, lines 30-34). The solution technique includes linear programming steps (FIG. 2, steps 31-44).

Claims 125-139 and 142-156 and 167 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 1-123 and 158-159 are allowed.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
Art Unit 2175